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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,876	03/20/2004	Stephen B. Austin	7412-001	7663
4678 7590 02/20/2007 MACCORD MASON PLLC 300 N. GREENE STREET, SUITE 1600 P. O. BOX 2974 GREENSBORO, NC 27402			EXAMINER ALIMENTI, SUSAN C	
			ART UNIT 3644	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/804,876

Applicant(s)

AUSTIN, STEPHEN B.

Examiner

Susan C. Alimenti

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3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 23-27, 30, and 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Steffler et al. (US PG PUB 2003/0139130 A1)

Steffler et al (Steffler) discloses a system for processing animal carcasses comprising a series of animal unit holders (shackles 22) that travel along a processing path (Figure 1) having a plurality of processing stations (transfer 30, pre-inspection 38, inspection 42, cutting, etc.), while holding an animal unit (carcass 33). A series of sensors are disposed along the processing path, comprising a first set 52, 54, 56 for sensing presence of the animal unit 33 ([0041]-[0043]) and a second set 62, 64, 66, 68, 70 & 72 for tracking the location of the animal unit holder 22 with respect to the associated carcass 33 ([0047]-[0050]). At least one of the sensors are considered to be located at an input of at least one of the processing stations.

The sensors are connected to a control system (programmable logic controller, PLC) and upon detecting the absence or presence of the animal unit 33 on holder 22, sensors 52, 54 & 56 send signals indicating such to the PLC for controlling the functions of the system ([0042]). More specifically, once the PLC receives a signal that the holder 22 is empty it will deactivate a cutter that is positioned downstream of several primary processing stations, thus causing it not to harvest the animal parts ([0043]). It is inherent that upon sensing the presence of an animal unit

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33 the cutter will act to harvest the animal parts, since this is the inventive purpose of Steffler's system.

Regarding the limitation of counting "a predetermined number of animal unit holders that do not hold a corresponding animal unit," Steffler's system counts the shackles [0051] inherently including the ones that hold an animal unit and those that do not in order to accurately keep track in the system.

Regarding claims 30 & 31, the PLC control system deactivates the cutter as discussed above based on as many holders 22 that are determined to not be holding an animal unit 33, which may be a series of holders 22

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler as applied above.

Steffler discloses the claimed invention, except it is not positively what type of sensors are preferable. It would have been an obvious design choice to utilize a sensor of the type of infrared sensors, proximity sensors, proximity switches, metal detection sensors, ultrasonic sensors, and combinations thereof in order to perform the disclosed sensing step since the

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examiner takes Official Notice that such sensors are known in the art for the particular purpose and it appears Steffler's system would work equally well with any of the above sensors.

Regarding claim 33, Steffler does not positively disclose that the PLC would recognize a cessation of conveyor movement based on the sensor readings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the PLC or control system to detect a pause in conveyor movement due to not sensing each successive shackle, since it already constantly counts the shackles as they move along at a predetermined speed, and this would be merely the automating of a manual activity which has been broadly held insufficient to distinguish over the prior art. *In re Venner*, 262 F.2d 91 (CCPA 1958).

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler as applied to claim 23 above, and further in view of Ewing (US 4,882,811).

Steffler discloses the claimed invention except it is not positively stated that the sensing of the animal units controls a water supply, e.g. for a cleaning or treating process. Ewing discloses an animal processing system, in the same field of invention, that utilizes a processing step for cleaning the animal unit (catfish 10) that provides in a controlled manner in order to conserve water. The device determines the presence of said unit 10 via sensor 70, and controller 92 times the duration of a spray of water on the unit 10 (Ewing, col.7, lns.40-57). It would have been obvious to one having ordinary skill in the art to utilize a cleaning step in Steffler's system to hinder bacteria growth and to control the duration of the water supply in order to conserve water.

***Response to Arguments***

6. Applicant's arguments filed 30 November 2006 have been fully considered but they are not persuasive. Applicant argues that because Steffler's processing system is comprised of two lines, a "kill" and "eviscerating" line, it does not anticipate the present invention as claimed, because the present invention discloses that "both [processing] stations are on the same conveyor" (Remarks, p.6, filed 11/30/06). The examiner respectfully disagrees and points out that applicant only recites, in at least claim 1, a "plurality of processing stations" along "a conveyor," and the examiner appropriately gives the broadest interpretation of these limitations. Steffler, as explained in the above rejection, discloses multiple processing stations along a conveyor. This conveyor is defined as that path along which the carcasses travel during the butchering processes, and is considered to comprise both lines since the carcasses pass along both in order to be processed completely. Steffler's device clearly anticipates the broadly stated claimed limitation, and therefore the rejection above is maintained.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan C. Alimenti

*Susan Alimenti*  
A.U. 3644